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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/522,501

01/26/2005

Jurgen Flach

4952-107 US

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7590

05/11/2009

MATHEWS, SHEPHERD, MCKAY, & BRUNEAU, P.A.
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EXAMINER

KELLER, MICHAEL J

ART UNIT

PAPER NUMBER

3634

MAIL DATE

DELIVERY MODE

05/11/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/522,501	Applicant(s) FLACH, JURGEN	
	Examiner Michael J. Keller	Art Unit 3634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 March 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 17, 18, 20, 26 and 33-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 17, 18, 20, 26 and 33-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. In the Reply filed 02/09/2009, Applicant has amended claims 17, 18, 33 and 36.

Continued Examination Under 37 CFR 1.114

2. The request filed on 03/18/2009 for a Request for Continuing Examination (RCE) under 37 CFR 1.114 is acceptable and an RCE has been established. Any previous finality is hereby withdrawn and a new action on the merits follows. Any newly-submitted claims have been added.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claims 20, 26 and 33-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carbonara (US 2,968,790) in view of Wilson (US 7,167,076).**

Carbonara discloses a system for opening and/or closing a door comprising: a transmitter unit (electric lock) which includes a light sensor (Col. 1 Lines 45-46), said transmitter unit can be activated by a predetermined sequence of light signals of predetermined length within a predetermined time period detected by the light sensor (Col. 1 Lines 22-25 and 68-71), and the transmitter unit includes a code setting device (a plurality of spaced tongues, Col. 1 Lines 53-57) by means of which the sequence of light pulses and the length of light pulses for activation can be programmed (according to the spacing of the tongues, Col. 2 Lines 11-16).

Carbonara does not disclose the transmitter unit including a wireless transmitter which transmits a signal to a receiver unit connected to the door drive.

Wilson discloses a system for opening and/or closing a door wherein a wireless transmitter (26, Fig. 1a) generates and transmits a coded signal to a receiver (Col. 3 Lines 34-44). While the transmitter is shown in the figures to be attached to a wall of the garage, not the door, Wilson states that the transmitter (which is held within the control module) could be mounted at any location (Col. 4 Lines 13-16). Because the control module may optionally be powered by batteries (Col. 6 Lines 54-56) the location is not limited by the availability of power outlets.

It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the transmitter unit of Ballentine with the wireless transmitter of Wilson to allow the transmitter to be located anywhere in the garage without having to run wiring to the motor controller.

5. Claims 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carbonara (US 2,968,790) in view of Wilson (US 7,167,076), and further in view of Thompson et al. (U.S. Patent 5,978,483).

The combination of Carbonara and Wilson discloses a system for opening and/or closing a door as set forth above, but does not disclose wherein said code setting device comprises jumpers or DIP switches.

Thompson et al. discloses a remote keyless entry system for preventing access to unauthorized individuals by securely encrypting messages transmitted from a remote transmitter to a receiver. The messages being encrypted with transmitter identification

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(ID) codes (Col. 2 Lines 52-58). The ID codes may be set using DIP switches or jumpers (Col. 10 Lines 59-61).

It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the code setting device of Carbonara and Wilson with DIP switches or jumpers as disclosed in Thompson et al. in order to provide a simpler means of programming the sequence and length of the light pulses.

Response to Arguments

6. Applicant's arguments filed 02/09/2009 have been fully considered but they are not persuasive.

7. Regarding the Carbonara reference, the predetermined sequence of light signals of predetermined length and predetermined period of time are determined by the spacing of the tongues and the speed at which the lock disc rotates. The predetermined sequence of light signals and predetermined length are programmed by designing and manufacturing the lock disc with spaced tongues. The fact that this is a more difficult method of programming than that proposed by Applicant is irrelevant.

8. Regarding the Wilson reference, Examiner has not relied on Wilson to teach a transmitter unit activated by light signals or a programmable code setting device, as these limitations are taught by Carbonara. Wilson does teach a wireless transmitter 26 which transmits a signal 32 to a door drive 38 (Col. 4 Lines 38-47). Fig. 1a and 1b clearly show that a wireless signal 44 is transmitted from a vehicle 40 to a control module 10, and a second wireless signal 32 is transmitted from the control module 10 (by transmitter 26) to the door drive 38.

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9. Regarding the Thompson reference, Examiner has not relied on Thompson to teach a transmitter unit activated by light signals or a programmable code setting device, as these limitations are taught by Carbonara. Examiner has cited Thompson in order to show that it was known in the art to use DIP switches or jumpers to program a code to be transmitted from a remote transmitter to a receiver.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael J. Keller whose telephone number is 571-270-5219. The examiner can normally be reached on Monday - Friday 9:00am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Katherine Mitchell can be reached on 571-272-7069. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/M. J. K./
Examiner, Art Unit 3634
/Jerry Redman/
Primary Examiner, Art Unit 3634